

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

WILLIAM J. ROTH, JR.

§

VS.

§

CIVIL ACTION NO. 1:10cv263

JOHN F. MILLER, JR.

§

MEMORANDUM OPINION REGARDING VENUE

Plaintiff William J. Roth, Jr., an inmate confined in the Jester IV Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983 against John F. Miller, Jr., and Jack O. Herrington. Plaintiff alleges the defendants acted improperly in connection with a state prosecution in Red River County, Texas.

Analysis

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is

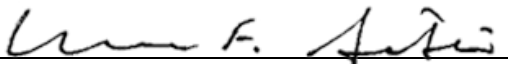
proper only in the judicial district where the defendants reside or in which the claim arose.

Plaintiff complains of events which occurred in Red River County. His claim therefore arose in Red River County. Pursuant to 28 U.S.C. § 124, Red River County is located in the Eastern District of Texas. As a result, venue is proper in this court.

However, while Red River County is in the Eastern District of Texas, it is in the Texarkana Division of such district, rather than the Beaumont Division. When a case is filed in the wrong district or division, the court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).

Accordingly, this case will be transferred to the Texarkana Division of this court. A Transfer Order shall be entered in accordance with this Memorandum Opinion.

**SIGNED** this 17 day of May, 2010.

  
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KEITH F. GIBLIN  
UNITED STATES MAGISTRATE JUDGE